

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BEAUTYKO LLC; LINOI LLC; SHOP  
FLASH USA INC.; BEAUTYKO USA INC.;  
AND BENNOTI USA INC.,

Case No. 16-355RSM

Plaintiffs,

ORDER GRANTING IN PART  
STIPULATED MOTION RE: MOTIONS  
IN LIMINE

## AMAZON FULFILLMENT SERVICES, INC.,

Defendant.

This matter comes before the Court on the parties' Stipulated Motion Regarding Motions in Limine. Dkt. #85. The parties jointly request leave to file motions in limine after the deadline. The Court has previously denied this request, Dkt. #61, but more recently permitted the parties to seek leave again, Dkt. #62.

The deadline for motions in limine has long since passed in this matter, which has had a tortured procedural history. *See* Dkt. #75. Although the Court permitted the parties to seek the requested relief here, the Court expected an explanation for why the scheduling order should be modified now, months after the motions in limine deadline, along with evidence of good cause. *See* LCR 16(b)(4). Instead, the parties state only that “this case... will proceed much more smoothly if certain evidentiary issues are worked out before trial.” Dkt. #85 at 1. This

1 assertion is true in every case; that is why motions in limine exist. The parties do not explain  
2 why they failed to file motions in limine by the deadline or seek leave to modify the scheduling  
3 order prior to that deadline. Even if the parties had anticipated settlement, seeking such leave  
4 prior to the deadline passing would have been prudent. Furthermore, the parties do not provide  
5 any evidence that they have acted diligently in this matter, which could have come in the form  
6 of declarations or even a few sentences in briefing.  
7

8 To a certain extent, the Court can fill in the blanks, given previously submitted evidence  
9 and argument. To their credit, the parties have apparently resolved many potential evidentiary  
10 issues, submitting only five disputed motions. *See* Dkt. #85. The Court will therefore grant in  
11 part the requested relief, but notes it could have easily denied this stipulated Motion for failure  
12 to meet the Local Rule 16(b)(4) standard.  
13

14 The Court has reviewed the stipulation and will grant the agreed motions in limine and  
15 permit the parties to file the proposed motions in limine. The parties may not file any motions  
16 in limine not included in the Stipulated Motion. Each party's motions in limine must be filed in  
17 a single brief, not to exceed three pages, and noted for consideration on November 3, 2017.  
18 These motions in limine, apparently already prepared, are due on October 12, 2017. Any brief  
19 in opposition is limited to three pages as well, and due the Monday before the noting date.  
20

21 Having reviewed the relevant briefing and the remainder of the record, the Court hereby  
22 finds and ORDERS that:  
23

24 I. The following Agreed Motions in Limine are GRANTED:  
25

26 1. Excluding evidence or testimony by Beautyko that relates only to Beautyko's  
27 dismissed claims for breach of contract, breach of the duty of good faith and fair  
28 dealing, and promissory estoppel, related to cancelled purchase orders. (This does

1 not preclude Beautyko from offering evidence or testimony related to Beautyko's  
2 remaining claims under any pleaded theory related to Amazon's alleged failure to  
3 pay invoices for product delivered.)

4 2. Exclude "David vs. Goliath" type argument regarding the parties' respective size,  
5 financial condition, or sophistication.  
6  
7 3. Preclude argument inviting jurors to put themselves in the place of the parties.  
8  
9 4. Preclude Beautyko from offering any expert evidence countering Amazon's expert's  
10 opinions and conclusions absent Beautyko's qualification of a lay witness as an  
11 expert.  
12  
13 5. Preclude Amazon from offering summary tables as evidence with conclusory labels  
14 placed on them. This does not preclude Amazon from proposing demonstrative  
15 exhibits, to which Beautyko may raise objections.

16 II. The parties request for leave to file disputed motions in limine is GRANTED. The  
17 parties may not file any motions in limine not included in the Stipulated Motion.  
18 Each party's motions in limine must be filed in a single brief, not to exceed three  
19 pages, and noted for consideration on November 3, 2017. These motions in limine  
20 are to be filed no later than October 12, 2017. Any brief in opposition is limited to  
21 three pages and due the Monday before the noting date.

22  
23  
24 DATED this 10 day of October, 2017.

25  
26  
27  
28   
RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT JUDGE